

REMARKS

The Office Action of May 6, 2010 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 10-12, 14, and 17-19 remain in the application. Reconsideration of the claims is respectfully requested.

In order to expedite prosecution, claims 10 and 19 have been revised to recite that the plurality of tubes passes through the plurality of slots, abuts the tank foot, and directly maintains the tank foot in place. Support for the revision may gleaned from the application as filed, at least at page 10, lines 15-28 and in Figs. 3c and 10. Claims 10 and 19 have also been revised to recite a plastic heat exchanger tank. Support for these revisions may be found throughout the application as filed, particularly on page 11, lines 10-14.

Claims 10-12, 14 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moreau (U.S. Patent No. 6,749,015) in view of Dey, et al. (U.S. Publication No. 2003/0217838). The Office states that Moreau discloses in Figures 1 and 3 all the claimed limitations except an essentially flat gasket. The Office further states that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the teachings of Moreau with the essentially flat gasket of Dey because adding the gasket would help to ensure a tight fluidly sealed system.

Applicants respectfully disagree with the characterization of Moreau by the Office. It is submitted that Moreau's plurality of tubes does *not* maintain the tank foot in place. It is further submitted that Moreau's plurality of tubes does not **abut the tank foot** (30) and **directly** maintain the tank foot in place as recited in Applicants' amended claims 10 and 19. Moreau's Fig. 3, reproduced below for convenience, depicts Moreau's tank foot (30) maintained by the conjunction of the header pan (16) and the manifold plate (22). As clearly shown in Fig. 3, Moreau's plurality of tubes does not intervene in the bearing of the tank (28). As such, Moreau's plurality of tubes does not abut the tank foot, and directly maintain the tank foot in place as

recited in Applicants' independent claims 10 and 19. As such, Moreau fails to anticipate, teach, or render obvious each and every element of independent claims 10 and 19, and it is submitted that Dey fails to supply the deficiencies.

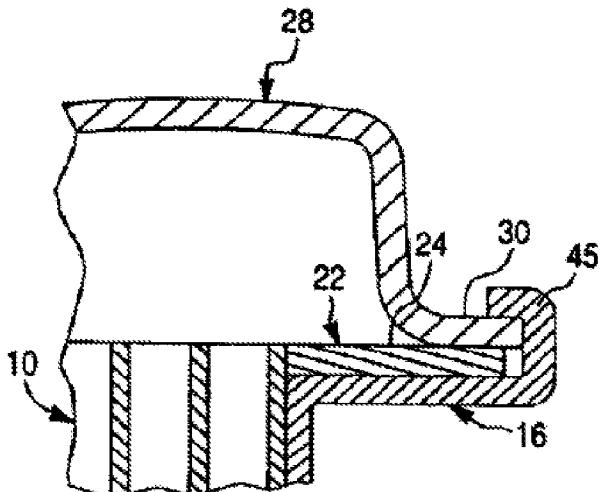


Fig. 3

It is further submitted that Moreau discloses an aluminum heat exchanger that is sealed by brazing (Col. 6, lines 65-67). In sharp contrast, if Applicants' disclosure has utility in a gasket, it is due to the fact that the tank is plastic (i.e., not in metal as in Moreau) and that the assembly between the tank and the header pan is obtained by crimping and not brazing. Thus, a gasket may improve the seal in the assembly disclosed by Applicants, but not that disclosed by Moreau. As such, it is respectfully submitted that no person of ordinary skill would have attempted to improve the seal of a brazed assembly (Moreau) by the addition of a gasket as proposed by the Office. The combination proposed by the Office would have required a greater expenditure of time, effort, and resources than Moreau's brazed assembly, with no reasonable expectation of improvement in sealing over brazing. The proposed modification thus would have amounted to extra work and greater expense for no apparent reason. Moreover, even if a person of skill in the art had been attempting to improve sealing of the Moreau tank to header joint, that person would have looked for a modification that would be more compatible with an all-brazed manufacturing process; the skilled artisan likely would have looked away from gaskets. As such, it is submitted that the

proposed combination of Moreau with Dey fails to support the rejection for obviousness.

For at least all the reasons stated above, it is submitted that Applicants' invention as defined in independent claims 10 and 19, as well as in those claims depending therefrom, is not anticipated, taught or rendered obvious by Moreau or Dey, either alone or in combination, and patentably defines over the art of record.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this amendment should be construed as an intent to concede any issue with regard to any claim, except if specifically stated in this amendment, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment.

In summary, claims 10-12, 14 and 17-19 remain in the application. In view of the foregoing arguments, all pending claims are believed to be in condition for allowance, and such action is respectfully requested. Therefore, this response is believed to be a complete response to the Office Action, and further and favorable consideration is respectfully requested.

Appln. S.N. 10/582,735
Amdt. dated November 3, 2010
Reply to Office Action of May 6, 2010
Docket No. VEC-138-B (RUS0143)
Page 8 of 8

If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact the undersigned attorney at the below-listed telephone number.

Respectfully submitted,

DIERKER & ASSOCIATES, P.C.

/Julia Church Dierker/

Julia Church Dierker
Attorney for Applicants
Registration No. 33368
(248) 649-9900, ext. 25
juliad@troypatent.com

3331 West Big Beaver Rd., Suite 109
Troy, Michigan 48084-2813
Dated: November 3, 2010
JCD/JBD/jmo